
(2019) 05 UK CK 0052
In the Uttarakhand High Court
Case No : Writ Petition No. 807 (MS) Of 2019

M/s R. D. Group

APPELLANT

Vs

Union Of India And Others

RESPONDENT

Date of Decision : 07-05-2019

Acts Referred:

Citation : (2019) 05 UK CK 0052

Hon'ble Judges : Alok Singh, J

Bench : Single Bench

Advocate : G.K. Verma, Hari Mohan Bhatia, Rakesh Thapliyal, Yogesh Pandey, R.P. Nautiyal, Sangeeta Bhardwaj, Alok Mehra

Final Decision : Dismissed

Judgement

Alok Singh, J

1. Brief facts of the present case inter alia are that petitioner is a proprietorship firm and Mr. Harish Kumar Sharma is its authorized signatory.

Petitioner firm is engaged in providing Helipad on rent and has its own Helipad at village Sersi, Mandakini Valley, Tehsil Ukhimath, District

Rudraprayag. In the month of February, 2019 notice inviting tenders for providing Helicopter Shuttle Services on select routes were invited. Last date

for submission of bids was 25.02.2019 at 01.00 hours. Vide corrigendum dated 22.02.2019, last date for submission of tender was extended till

01.03.2019 at 01.30 hours. Vide Government Order dated 09.06.2016, Secretary, Government of Uttarakhand directed the District Magistrate,

Rudraprayag and Uttarakhand Civil Aviation Department not to grant permission for construction private Helipad, as there are already 14 Helipads in

existence. This order was modified on 16.02.2019 whereby 4 additional Helipads

of respondents no. 6 to 9 were included for Helicopter services only

for the season 2019. Feeling aggrieved, petitioner approached this Court challenging the order dated 16.02.2019 & 22.02.2019 and for excluding the name respondents no. 6 to 9 from bid process.

2. Heard Mr. Gopal K. Verma and Mr. H.M. Bhatia, Advocates for the petitioner, Mr. Rakesh Thapliyal, Assistant Solicitor General for Union of India, Mr. Yogesh Pandey, Addl. Chief Standing Counsel for the State of Uttarakhand, Mr. Alok Mehra, Advocate for respondent no. 10, Mr. R.P.

Nautiyal, Sr. Advocate assisted by Ms. Sangeeta Bhardwaj, Advocate for the respondent nos. 6 to 9 and perused the record.

3. Mr. Gopal K. Verma, Advocate for the petitioner submits that respondents no. 6 to 9 in connivance with State authorities have managed to enter in

the bid process. He placing reliance on Annexure No. 1 to the counter affidavit filed by respondent no. 2, submits that on the basis of report of

Incharge Revenue Inspector, private respondents managed to obtain Government Order dated 16.02.2019. While as per Annexure No.6 to the writ

petition, District Magistrate herself had directed the Sub Divisional Magistrate, Ukhimath not to grant permission for construction of any private

Helipad and respondents no. 6 to 9 have constructed their Helipad illegally.

4. Per contra, Mr. R.P. Nautiyal, learned Sr. Advocate raised a preliminary objection that present writ petition is not maintainable, as writ petition is

filed by Mr. Harish Kumar Sharma as authorized signatory while there is no power of attorney only Director has authorized the petitioner to file

present writ petition. Name of the Director of the Company is also not shown. Petitioner has not disclosed his post or capacity in the said firm.

5. Mr. R.P. Nautiyal, learned Sr. Advocate further submits that present bids are invited for shuttle service of helicopters and petitioner is a Helipad

owner, he has nothing to do with the tender process. Petitioner cannot curtail the rights of respondents no. 6 to 9 by way of filing writ petition and

petitioner has no locus to challenge the impugned orders, as he has not participated in the tender process.

6. All the other counsel for the respondents adopted the arguments of Mr. R.P. Nautiyal, learned Senior Advocate.

7. In paragraph 4 of the rejoinder affidavit filed to the counter affidavit filed on behalf of respondent no. 2, petitioner has stated that petitioner has also

participated in the tender process in association with Deccan Aviation, who has applied for Narayan Dham Helipad. On page no. 73 and 76 of the writ

petition, list of 20 and 24 Helipads respectively are mentioned. In the said list, location of Narayan Dham Helipad is mentioned at Sitapur/ Sersi.

Petitioner has brought nothing on record to show that Narayan Dham Helipad is owned by petitioner firm or in what manner petitioner is connected

with Narayan Dham Helipad. Therefore, in my opinion, it can safely be said that petitioner has not participated in the tender process and has no locus

to challenge the impugned order and for excluding the names of respondents no. 6 to 9. Otherwise also, petitioner failed to establish in what capacity,

he has filed the present writ petition.

8. So far as argument of Mr. G. K. Verma, Advocate for the petitioner is concerned that on the basis of report of Incharge Revenue Inspector,

Government Order dated 16.02.2019 is passed. For every work procedure is prescribed. The process starts from initial stage and in the system

complete chain is made one authority submits its report to the higher authority, higher authority to its higher authority and so on and thereafter, decision

is taken. Petitioner has relied only on the report of ground level authority. In my opinion, Secretary has passed the Government Order dated

16.02.2019 after applying his mind and considering all the aspects. In my opinion, by including respondent nos. 6 to 9, in the bid process, the

Government has improved the competition which will be for the benefit and convenience of public at large. So far as Annexure No. 6 to the writ

petition is concerned, it was passed by District Magistrate on 06.05.2017 before passing of order dated 16.02.2019, therefore, has no relevance.

9. State of Uttarkhand, in paragraph 3 of the counter affidavit and respondent no. 10 / UCADA in paragraph 3 of the counter affidavit have

categorically stated that petitioner is neither a prospective bidder in the entire bidding process under challenge nor in any manner, is an affected party

to the said bid document, therefore, petitioner has no locus to challenge the bid process.

10. Even if it is assumed for the sake of argument that petitioner has participated in the tender process, even then petitioner has no right for a direction

to exclude respondents no. 6 to 9, as they are also participants in the tender process and have equal right as of petitioner. If they have constructed

Helipad illegally, the Competent Authority will look into the matter. So far as challenge to the orders 16.02.2019 and 22.02.2019 is concerned, it is not

the case of the petitioner, the Authorities concerned, who have passed these orders are not competent to pass the same.

11. In view of the above discussion, writ petition fails and is hereby dismissed. Interim order passed by this Court stands vacated.